6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2019-0618 and EPA-R04-OAR-2019-0619; FRL-10022-87-Region 4]

Air Plan Approval; TN; Removal of Vehicle I/M Program; Middle Tennessee Area and Hamilton County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: Through this supplemental notice of proposed rulemaking ("supplemental proposal" or "SNPRM"), the Environmental Protection Agency (EPA) is seeking public comment on the Agency's additional and clarified technical rationale related to the proposed approval of Tennessee's February 26, 2020, state implementation plan (SIP) revisions requesting the removal of Tennessee's motor vehicle inspection and maintenance (I/M) program requirements for Davidson, Sumner, Rutherford, Williamson, and Wilson Counties in Tennessee (also known as the Middle Tennessee Area) and Hamilton County (also known as the Chattanooga Area), from the federally-approved SIP. Specifically, EPA proposes to affirm that the Hamilton County and Middle Tennessee areas would continue to attain and maintain the national ambient air quality standards (NAAQS or standards) after removal of the I/M program, and to rely on an emissions inventory comparison to inform its determination that both areas would continue to attain and maintain the ozone and carbon monoxide (CO) NAAQS. EPA is further proposing to conclude that the removal of the I/M program will not interfere with other states' ability to attain and maintain the 2008 ozone NAAQS under the good neighbor provision of the Clean Air Act (CAA or Act) and providing additional information related to that conclusion. EPA is now taking comment on the use of this comparison and additional information in this supplemental proposal.

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0618 (Middle Tennessee Area) or EPA-R04-OAR-2019-0619 (Hamilton County), at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public dockets. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Chief, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background for This Supplemental Proposal

EPA published notices of proposed rulemaking (NPRMs) on June 8, 2020, and June 11, 2020, responding to Tennessee's February 26, 2020, SIP revision requests[1] that EPA approve

[1] EPA officially received Tennessee's I/M SIP revisions on February 27, 2020.

removal of the I/M program[2] from the Tennessee SIP for Hamilton County and the Middle Tennessee Area, respectively. Notably, Tennessee requested that the Tennessee Air Pollution Control Regulations (TAPCR) 1200-03-29 and Davidson County's Regulation 8 be removed from the Tennessee SIP.[3] *See* 85 FR 35037 and 85 FR 35607 for additional background. The June 8, 2020, and June 11, 2020, NPRMs (hereinafter referred to as the June 2020 NPRMs) were based on EPA's proposed findings that the removal of the I/M program from the Tennessee SIP for the Middle Tennessee Area and for Hamilton County satisfies section 110(l) of the Clean Air Act (CAA) (i.e., will not interfere with any applicable requirement concerning attainment of any NAAQS and reasonable further progress, or any applicable requirements of the CAA). Comments closed on the NPRMs on July 8, 2020, and July 13, 2020, respectively.[4]

II. CAA Section 110(l) Analysis

EPA is clarifying that although Tennessee included photochemical modeling sensitivity analyses to provide additional weight of evidence in its February 26, 2020, SIP revisions, and EPA described those analyses in the June 2020 NPRMs, the photochemical modeling sensitivity analyses were not required and were not intended as the basis for EPA's proposed determinations that removal of the I/M program from Hamilton County and the Middle Tennessee Area would not interfere with attainment or maintenance of the NAAQS or any other applicable CAA requirements. EPA's proposed finding that these removals satisfy CAA section 110(l) is based on the technical analyses presented below, which are consistent with and provide additional support for the proposed conclusions set forth in the June 2020 NPRMs.

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[2] Tennessee requested that EPA remove the requirements for the Middle Tennessee Area and Hamilton County to implement an I/M program as part of the Early Action Compact (EAC) that was approved by EPA into the non-regulatory portion of the Tennessee SIP on August 26, 2005. *See* 70 FR 50199. With respect to the Middle Tennessee Area, the I/M program was identified in the EAC as an existing control strategy in the SIP.

[3] Tenn. Code Ann. § 68-201-119(c) allows Tennessee counties to retain local I/M programs under certain conditions. As Tennessee is requesting removal of the I/M program from the SIP, EPA's analysis in this supplemental proposal assumes that no I/M program will be implemented in the Middle Tennessee Area and Hamilton County. However, this proposed action does not preclude local I/M programs from being retained at a local level outside of the SIP.

[4] On January 19, 2021, former EPA Region 4 Administrator Mary Walker signed a document, which EPA posted to its website at https://www.epa.gov/sips-tn/epa-approval-tennessees-requests-remove-inspection-and-maintenance-im-program-tennessee. EPA noted in that posting "Notwithstanding the fact that the EPA is posting a pre-publication version, the final rule will not be promulgated until published in the *Federal Register*." EPA will not publish that document in the *Federal Register*; therefore, it will not result in a final rule.

EPA's CAA section 110(l) non-interference demonstration supporting its proposed approval of Tennessee's SIP revisions seeking removal of the I/M program in Hamilton County and the Middle Tennessee Area focuses on ozone (through its precursors nitrogen oxides (NOx) and volatile organic compounds (VOC)) and CO, the criteria pollutants addressed by I/M programs.[5] I/M programs are not designed to address lead and sulfur dioxide (SO_2) emissions, and nitrogen dioxide (NO_2) is captured generally through consideration of NOx impacts. While EPA considers NOx, VOCs, ammonia, and SO_2 as precursors for particulate matter (PM), PM formation in Tennessee is dominated by emissions of SO_2, reacting in the atmosphere to form sulfates, and not by emissions of NOx, VOCs, or ammonia. However, NOx and VOC increases are considered through the analysis for ozone. Although Tennessee is NOx-limited[6] for ozone formation, EPA also evaluated VOC emissions to be environmentally conservative.

EPA is using an emissions inventory comparison to inform its determination of whether Hamilton County and the Middle Tennessee Area would continue to attain and maintain the ozone and CO NAAQS after removal of the I/M program. Tennessee chose 2022 as the future year for the State's non-interference demonstrations.[7] Tennessee's non-interference demonstration utilized EPA's Motor Vehicle Emission Simulator (MOVES) modeling system, specifically MOVES2014b, to estimate ozone precursor emissions for mobile sources — both on-road and non-road.[8] In general, an emissions comparison approach is a reasonable and valid

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[5] The total suite of CAA criteria pollutants are ozone (through the precursors NOx and VOCs), CO, PM (and its precursors - NOx, VOCs, ammonia, and SO_2), lead, SO_2, and NO_2.

[6]The term "NOx limited" means that changes in anthropogenic VOC emissions have little effect on ozone formation. Control of NOx and VOC are generally considered the most important components of an ozone control strategy, and NOx and VOC make up the largest controllable contribution to ambient ozone formation. However, Tennessee has shown a greater sensitivity of ground-level ozone to NOx controls rather than VOC controls. This is due to high biogenic VOC emissions compared to anthropogenic VOC emissions in Tennessee. Therefore, implemented control measures have focused on the control of NOx emissions.

[7] EPA notes that Tennessee did an analysis of emissions between 2022 and 2030 without I/M to determine the potential impact of on mobile emissions. Tennessee's analysis shows that in the Middle Tennessee Area emissions decrease by 35 percent for NOx, 24 percent for VOC, and 30 percent for CO; and that in Hamilton County emissions decrease by 45 percent for NOx, 33 percent for VOC, and 40 percent for CO. This analysis is provided in the dockets for this proposed rulemaking as weight of evidence.

[8] EPA reviewed the MOVES2014b modeling that was submitted by Tennessee to support the non-interference demonstration and concluded that the State used appropriate assumptions for the model and performed the modeling in accordance with EPA's MOVES Technical Guidance. *See* EPA's July 2014 "Policy Guidance on the Use of

approach to determining whether an area removing an I/M program can maintain the NAAQS and is very similar to the maintenance demonstrations that support the redesignations of areas from nonattainment to attainment and 10-year maintenance plans that are required for redesignated areas. EPA is comparing future year emissions (following the removal of the I/M program) to emissions in a base year with an attaining design value.[9] If the total future year emissions for the relevant pollutant(s)/precursor(s) are less than the total base year emissions, EPA considers that to be a sufficient and reasonable demonstration that the area will maintain the NAAQS where the base year emissions are at a level sufficient to achieve the NAAQS. EPA is proposing to conclude that these analyses, as described below, provide further support for the conclusions set forth in the June 2020 NPRMs. CAA section 110(l) demonstrations are case-specific and, in the case of the Tennessee I/M SIP revisions, modeling is not required to demonstrate non-interference.

A. Middle Tennessee Area

The Middle Tennessee Area is currently in attainment with all NAAQS.[10] As presented in Table 1, past design values (i.e., prior to October 1, 2015) have demonstrated attainment of the 2008 8-hour ozone NAAQS (i.e., the applicable NAAQS at that time), and recent design values have demonstrated attainment of the 2015 8-hour ozone NAAQS in the Middle Tennessee Area.

Table 1: Middle Tennessee Area Ozone Monitor Design Values***

	Ozone Design Value, parts per billion (ppb)					
Site name	**2012-2014**	**2013-2015**	**2014-2016**	**2015-2017**	**2016-2018**	**2017-2019**
Trinity Lane, Davidson County	*	*	66	65**	66	65
Percy Priest, Davidson County	70	65	67	64	67	65
Rockland Recreation Area, Sumner County	72	67	67	66	66	66
Fairview Middle School, Williamson County	66	62	61	60	60	60
Cedars of Lebanon State Park, Wilson County	67	62	64	63	*	*

MOVES2014 for State Implementation Plan Development, Transportation Conformity, and Other Purposes, available at https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100K4EB.pdf. MOVES2014b was the latest version available at the time of Tennessee's SIP revision. *See* EPA's November 2020 "Policy Guidance on the Use of MOVES3 for State Implementation Plan Development, Transportation Conformity, General Conformity, and Other Purposes (EPA-420-B-20-044)," available at https://www.epa.gov/sites/production/files/2020-11/documents/420b20044_0.pdf (noting that "[s]tates should use the latest version of MOVES that is available at the time that a SIP is developed.").

[9] Design values are how EPA measures compliance with the NAAQS.

[10] As mentioned in the June 8, 2020, NPRM, the current design values in the Middle Tennessee Area for PM, NO_2, lead and SO_2 are attaining the NAAQS. In fact, the Middle Tennessee Area has never been designated nonattainment for PM, NO_2, lead, or SO_2. The increases in NOx and VOC emissions without the I/M program in 2022 in comparison to with the I/M program in 2022 are not expected to cause a concern for PM, NO_2, lead and SO_2 compliance in the Middle Tennessee Area. As discussed more in this notice, no reductions or emissions benefits are attributable to the I/M program for PM, lead, and SO_2 in the Middle Tennessee Area, and the total emissions increases in NOx (a key ingredient in NO_2 is a component) in 2022 without the program is less than the total emissions in 2014.

County						

*No valid design value due to incomplete data. The Cedars of Lebanon site had incomplete data in 2018 because there was an issue following the installation of a new monitoring shelter, and TDEC invalidated data collected before the issue was corrected. The East Health/Trinity Lane site had incomplete data in 2013.
**In the June 11, 2020, NPRM (85 FR 35607), EPA inadvertently stated that the 2015-2017 design value was 66 ppb. The correct value is 65 ppb.
*** The Middle Tennessee Area was in attainment with the most stringent ozone NAAQS effective during the time period of the design value. 2012-2014 and 2013-2015 design values were attaining the 2008 8-hour ozone NAAQS of 0.075 parts per million (ppm). EPA notes that the 2015 8-hour ozone NAAQS of 0.070 ppm was not in effect until October 1, 2015, and all design values after this date attained the 2015 8-hour ozone standard.

Also, design values for Tennessee for the 1-hour (see Table 2) and 8-hour (see Table 3) CO NAAQS in 2019 were 1.8 ppm and 1.6 ppm, respectively, which are less than 20 percent of the CO NAAQS for both the 1-hour and 8-hour standards.

Table 2: Middle Tennessee Area CO Monitor 1-Hour Design Values

	CO 1-hr Design Value, ppm**						
Site name	**2012-2013**	**2013-2014**	**2014-2015**	**2015-2016**	**2016-2017**	**2017-2018**	**2018-2019**
Alabama Ave. Station, Shelby County	2.4	2.4	1.9	1.9	1.4	*	*
Great Smoky Mountains NP - Look Rock, Blount County	*	*	0.3	2.2	2.2	0.3	1.2
Memphis NCORE site, Shelby County	1.3	1.3	1.6	1.6	1.0	1.0	1.0
Broadway, Davidson County	1.9	1.6	*	*	*	*	*
Near Road, Davidson County	*	*	1.7	1.7	1.9	1.9	1.8
Near Road Site at Southwest Tennessee Community College, Shelby County	*	*	4.5	4.5	1.2	1.6	1.6

* Data are not available for all monitors and years due to CO monitor startups and shutdowns during this time period.
**The level of the 1971 1-hour NAAQS for CO is 35 ppm not to be exceeded more than once per year. The design

value is evaluated over a 2-year period. Specifically, the design value is the higher of each year's annual second maximum, non-overlapping 1-hour average. Only valid design values are shown.

Table 3: Middle Tennessee Area CO Monitor 8-Hour Design Values

	CO 8-hr Design Value, ppm**						
Site name	2012-2013	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	2018-2019
Alabama Ave. Station, Shelby County	1.9	1.9	1.5	1.5	1.2	*	*
Great Smoky Mountains NP - Look Rock, Blount County	*	0.2	0.3	1.2	1.2	0.3	0.6
Memphis NCORE site, Shelby County	0.8	0.8	0.9	0.9	0.7	0.9	0.9
Broadway, Davidson County	1.5	1.2	*	*	*	*	*
Near Road, Davidson County	*	1.2	1.4	1.5	1.5	1.6	1.6
Near Road Site at Southwest Tennessee Community College, Shelby County	*	0.6	2.0	2.0	0.7	0.9	0.9

* Data are not available for all monitors and years due to CO monitor startups and shutdowns during this time period.
**The level of the 1971 8-hour NAAQS for CO is 9 ppm not to be exceeded more than once per year. The design value is evaluated over a two-year period. Specifically, the design value is the higher of each year's annual second maximum, non-overlapping 8-hour average. Only valid design values are shown.

Monitoring data for 2020 are not yet certified, but preliminary data remain consistent with attainment of the ozone and CO NAAQS.

To support a demonstration of non-interference for the Middle Tennessee Area, EPA is using 2014 as an attainment base year[11] and comparing the total emissions of NOx, VOC, and CO to the total emissions of these pollutants in 2022, the first full year in which the I/M program in the Middle Tennessee Area is expected to no longer exist. EPA chose 2014 because the 2014 point, non-road, and non-point data provided in Tennessee's February 26, 2020, submissions were the most current data available to the State at the time of the development of these SIP revisions. The mobile emissions were generated utilizing MOVES2014b, the applicable mobile emissions model at the time of the development of the SIP revision. For consistent comparisons, EPA obtained the 2014 mobile emissions submitted by Tennessee from EPA's Emissions Inventory System (EIS). Table 4 provides a summary for the Middle Tennessee Area of the total emissions for NOx, VOC, and CO in 2014; total emissions for NOx, VOC, and CO in 2022 with the I/M program; and total emissions for NOx, VOC, and CO in 2022 without the I/M program.

Table 4: Middle Tennessee Area Emissions (tons per year (tpy))

Sector	2014 Emissions			2022 Projected Emissions With I/M			2022 Projected Emissions Without I/M		
	NOx	VOC	CO	NOx	VOC	CO	NOx	VOC	CO
Onroad	27,499	12,497	135,844	11,309	4,780	71,816	11,788	5,373	82,184
Point	8,040	3,803	2,568	4,455	3,867	2,696	4,455	3,867	2,696
Nonroad	8,339	5,638	56,497	5,413	3,451	49,105	5,413	3,451	49,105
Non-Point	3,702	19,716	41,375	3,504	22,690	45,833	3,504	22,690	45,833
Total	**47,580**	**41,654**	**236,284**	**24,681**	**34,788**	**169,450**	**25,160**	**35,382**	**179,818**
Percent reduction from 2014 emissions							47.1 %	15.1 %	23.9 %

As stated in EPA's June 11, 2020, NPRM, for 2022, the removal of the I/M program accounts for a small increase in NOx and VOC on-road emissions. The difference in NOx emissions in 2022, with and without the I/M program, is 479 tpy for NOx and 594 tpy for VOC. However, the total NOx emissions in 2022 without the I/M program are 22,420 tpy less than the total NOx emissions in 2014, and total VOC emissions in 2022 without the I/M program are

[11] As shown in Table 1 above, 2014 is included as one of the years associated with attaining design values for the 2008 8-hour ozone NAAQS (the applicable NAAQS in 2014). Although the 2014 4th highest daily maximum 8-hour ozone concentration is 71 ppb (i.e., higher than the level of the 2015 8-hour ozone NAAQS) at the Percy Priest Dam monitor, EPA believes that 2014 is an acceptable base year given the magnitude of the NOx and VOC emissions reductions from 2014 to 2022 and the fact that the 2014 4th max was only one ppb higher than the level of the 2015 8-hour ozone standard. https://www.epa.gov/outdoor-air-quality-data. EPA also notes that the 2015 8-hour ozone NAAQS was not in effect until October 1, 2015.

6,272 tpy less than the total VOC emissions in 2014. For CO, the difference in emissions in 2022, with and without the I/M program, is 10,368 tpy. However, the total CO emissions without the I/M program are 56,466 tpy less than the total CO emissions in 2014. Even without the I/M program in 2022, emissions of NOx, VOC, and CO are projected to decrease by 47.1 percent, 15.1 percent, and 23.9 percent, respectively, from 2014 levels.

Because 2022 total emissions without the I/M program are projected to be less than the total 2014 emissions, EPA proposes to conclude that removal of the I/M program in the Middle Tennessee Area will not interfere with attainment or maintenance of the NAAQS or any other applicable CAA requirements. Additionally, as shown in Table 1, the highest ozone design value associated with 2014 is 6 ppb above the most recently available ozone design value for 2017-2019, thereby providing an additional buffer, and the 2017-2019 ozone design value is at least 4 ppb below the level of the 2015 8-hour ozone NAAQS of 70 ppb. EPA is proposing to conclude that it is reasonable to expect emissions that are 22,420 tpy less than 2014 NOx emissions and 6,272 tpy less than 2014 VOC emissions would not cause ozone levels to exceed the current 2015 8-hour ozone NAAQS. Also, EPA is proposing to conclude that it is reasonable to expect that emissions that are 56,466 tpy less than 2014 CO emissions would not cause CO levels to exceed either the 1-hour or 8-hour CO NAAQS.

B. Hamilton County

Hamilton County is currently in attainment with all NAAQS.[12] As presented in Table 5, past design values (i.e., prior to October 1, 2015) have demonstrated attainment of the 2008 8-

[12] As mentioned in the June 8, 2020, NPRM, the current design values in Hamilton County for PM, NO_2, lead, and SO_2 are attaining the NAAQS. In fact, Hamilton County has never been designated nonattainment for NO_2, lead, or SO_2. Hamilton County was previously designated nonattainment for the 1997 PM NAAQS but has since attained that NAAQS and is still in compliance. The increases in NOx and VOC emissions without the I/M program in 2022 in comparison to with the I/M program in 2022 are not expected to cause a concern for PM, NO_2, lead and SO_2

hour ozone NAAQS (i.e., the applicable NAAQS at that time), and recent design values have demonstrated attainment of the 2015 8-hour ozone NAAQS in Hamilton County.

Table 5: Hamilton County Ozone Monitor Design Values

	Ozone Design Value, ppb*					
Site name	**2012-2014**	**2013-2015**	**2014-2016**	**2015-2017**	**2016-2018**	**2017-2019**
Eastside Utility	69	66	68	67	66	64
Soddy Daisy	67	64	65	65	64	64

* Hamilton County was in attainment with the most stringent ozone NAAQS effective during the time period of the design value. 2012-2014 and 2013-2015 design values were attaining the 2008 8-hour ozone NAAQS of 0.075 ppm. EPA notes that the 2015 8-hour ozone NAAQS of 0.070 ppm was not in effect until October 1, 2015, and all design values after this date attained the 2015 standard.

The Chattanooga Metropolitan Statistical Area (of which Hamilton County is a part) is not required to operate a CO monitor, and there is no historical CO monitoring data in Hamilton County. The highest CO design values in Tennessee during 2018-2019 for the 1-hour and 8-hour CO NAAQS were both measured at the Nashville Near Road site, and were 1.6 ppm (see Table 2 above) and 1.8 ppm (see Table 3 above), respectively, which are less than 20 percent of the CO NAAQS for both the 1-hour and 8-hour standards.

To support a demonstration of non-interference for Hamilton County, EPA is using 2014 as an attainment base year[13] and comparing the total emissions of NOx, VOC, and CO to the total emissions of these pollutants in 2022, the first full year in which the I/M program in Hamilton County is expected to no longer exist. EPA chose 2014 because the 2014 point, non-road, and non-point data provided in Tennessee's February 26, 2020, submissions, were the most current data available to the State at the time of the development of these SIP revisions. The mobile emissions were generated utilizing MOVES2014b, the applicable mobile emissions model at the time of the development of the SIP revision. For consistent comparisons, EPA

compliance in Hamilton County. As discussed more in this notice, no reductions or emissions benefits are attributable to the I/M program for PM, lead, and SO_2 in Hamilton County, and the total emissions increases in NOx (of which NO_2 is a component) in 2022 without the program is less than the total emissions in 2014.

[13] As shown in Table 5 above, 2014 is one of the years associated with attaining design values for the 2008 8-hour ozone NAAQS of 0.075 ppm. The 2008 8-hour ozone NAAQS was the applicable NAAQS for the 2015 ozone season. EPA notes that the 2015 8-hour ozone NAAQS of 0.070 ppm was not in effect until October 1, 2015.

obtained the 2014 mobile emissions submitted by Tennessee from EPA's EIS. Table 6 provides a summary for Hamilton County of the total emissions for NOx, VOC, and CO in 2014; total emissions for NOx, VOC, and CO in 2022 with the I/M program; and total emissions for NOx, VOC, and CO in 2022 without the I/M program.

Table 6: Hamilton County Area Emissions

Sector	2014 Emissions			2022 Projected Emissions With I/M			2022 Projected Emissions Without I/M		
	NOx	**VOC**	**CO**	**NOx**	**VOC**	**CO**	**NOx**	**VOC**	**CO**
Onroad	6,659	3,173	35,539	4,613	2,127	23,875	4,712	2,273	26,854
Point	1,024	664	458	1,314	825	566	1,314	825	566
Nonroad	3,252	1,587	13,594	2,220	935	11,600	2,220	935	11,600
Non-Point	2,037	5,212	7,038	1,220	5,744	7,007	1,220	5,777	7,007
Total	**12,972**	**10,636**	**56,629**	**9,367**	**9,632**	**43,049**	**9,467**	**9,778**	**46,028**
Percent reduction from 2014 emissions							27.0 %	8.1 %	18.7 %

As stated in the June 8, 2020, NPRM, for 2022, the removal of the I/M program accounts for a small increase in NOx and VOC on-road emissions. The difference in emissions in 2022, with and without the I/M program, is 100 tpy for NOx and 146 tpy for VOC. However, the total NOx emissions in 2022 without the I/M program are 3,505 tpy less than the total NOx emissions in 2014, and the total VOC emissions in 2022 without the I/M program are 858 tpy less than the total VOC emissions in 2014. For CO, the difference in emissions in 2022 with and without the I/M program is 2,979 tpy. However, the total CO emissions without the I/M program are 10,061 tpy less than the total CO emissions in 2014. Even without the I/M program in 2022, emissions of NOx, VOC, and CO are expected to decrease by 27.0 percent, 8.1 percent and 18.7 percent, respectively from 2014 levels.

Because 2022 total emissions without the I/M program are less than total 2014 base year emissions, EPA proposes to conclude that removal of the I/M program in Hamilton County will not interfere with attainment or maintenance of the NAAQS or any other applicable requirement of the CAA. Additionally, as shown in Table 5, the highest ozone design value associated with 2014 is 5 ppb above the most recently available ozone design value for 2017-2019, thereby

providing an additional buffer, and the 2017-2019 ozone design value is 6 ppb below the level of the 2015 8-hour ozone NAAQS of 70 ppb. EPA is proposing to conclude that it is reasonable to expect emissions that are 3,505 tpy less than 2014 NOx emissions and 858 tpy less than 2014 VOC emissions would not cause ozone levels to exceed the current 2015 8-hour ozone NAAQS. Also, EPA is proposing to conclude that it is reasonable to expect that emissions that are 10,061 tpy less than 2014 CO emissions would not cause CO levels to exceed either the 1-hour or 8-hour CO NAAQS.

C. Interstate Ozone Transport

EPA proposes to conclude that the changes that would be approved by EPA in this action do not interfere with other states' ability to attain and maintain the 2008 ozone NAAQS under the good neighbor provision, CAA section 110(a)(2)(D)(i)(I). EPA has previously found that the 2016 Cross-State Air Pollution Rule (CSAPR) Update fully resolved Tennessee's good neighbor (or "transport") obligations for the 2008 ozone NAAQS. The CSAPR Update addresses NOx pollution transported to other states that significantly contributes to nonattainment or interferes with maintenance of the 2008 ozone NAAQS.[14] Among other things, the CSAPR Update requires reductions of NOx from power plants during the annual ozone season from May 1 to September 30 in 22 states, including Tennessee. Although for most covered states, EPA found the CSAPR Update may only partially address the covered states' good neighbor obligations, EPA found the rule fully addresses Tennessee's good neighbor obligation for this NAAQS. *See* 81 FR 74504, 74540. That conclusion was based on an assessment of air quality in the eastern U.S. with implementation of the CSAPR Update, and it accounted for emissions from all source sectors, including mobile sources.

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[14] The CSAPR Update is a rule that followed the original CSAPR rulemaking in 2011. CSAPR requires certain states in the eastern half of the U.S. to improve air quality by reducing power plant emissions of NOx and SO_2 that cross state lines and contribute to smog and soot pollution in downwind states. On September 7, 2016, EPA revised the CSAPR ozone season NOx program by finalizing an update to CSAPR for the 2008 ozone National Ambient Air Quality Standards, known as the CSAPR Update. The CSAPR Update ozone season NOx program was designed to largely replace the original CSAPR ozone season NOx program starting on May 1, 2017, and further reduce summertime NOx emissions from power plants in the eastern U.S.

The CSAPR Update was reviewed and generally upheld in *Wisconsin v. EPA*, 983 F.3d 303 (D.C. Cir. 2019). The D.C. Circuit remanded the rule without vacatur because, for states other than Tennessee, the rule did not provide a full remedy by the next relevant attainment date under CAA section 181. Thus, the CSAPR Update remains in effect. EPA notes that the aspects of the CSAPR Update affecting Tennessee were not challenged in the litigation over the rule and are not affected by the remand of the rule in *Wisconsin*.

EPA believes the projected increase in mobile source emissions from removal of Tennessee's I/M program does not affect EPA's prior finding in the CSAPR Update that the state of Tennessee has no further interstate transport obligations for the 2008 8-hour ozone NAAQS. As discussed in the sections above, in this supplemental notice, EPA has analyzed the impacts of removing the I/M program in the Middle Tennessee Area and Hamilton County and proposes to find that the largest projected increase in mobile source emissions in these areas would result in a combined projected increase of 579 tons in 2022, or a 2 percent increase in total anthropogenic NOx emissions in these areas.[15] Therefore, the net change in total anthropogenic emissions across the entire state of Tennessee would be much less than the projected 2 percent increase in NOx emissions for these areas.

On October 30, 2020, in the notice of proposed rulemaking for the Revised CSAPR Update, which addresses the *Wisconsin* remand, EPA released and accepted public comment on updated 2023 modeling that used a 2016 emissions platform developed under the EPA/Multi-Jurisdictional Organization (MJO)/state collaborative project.[16] In this modeling, EPA found that the highest contribution in 2023 from the entire state of Tennessee to any downwind receptor identified as having a nonattainment or maintenance problem for the 2008 ozone standard is projected to be 0.32 ppb. This amount of contribution is well below the 1 percent of

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[15] In 2022, emissions of VOC are projected to increase by 740 tons, or a 1.7 percent increase in total anthropogenic VOC emissions. In the context of interstate ozone transport, EPA focuses on NOx as the key ozone precursor pollutant.

[16] *See* 85 FR 68964, 68981. The results of this modeling are included in a spreadsheet in the docket for this action. The underlying modeling files are available for public review in the docket for the Revised CSAPR Update (EPA-HQ-OAR-2020-0272).

the NAAQS threshold used in EPA's good neighbor framework for determining whether an upwind state contributes to a nonattainment or maintenance receptor under the 2008 ozone NAAQS (i.e., 0.75 ppb).[17]

The small amount of projected increase in NOx emissions in Tennessee as a result of this action, combined with the fact that the highest modeled contributions from this state are well below the 1 percent threshold, support the conclusion that the projected increase in mobile source emissions does not affect EPA's prior decision that Tennessee has no remaining interstate transport obligations under the 2008 ozone NAAQS.

This supplemental proposed action does not make any finding regarding Tennessee's interstate transport obligations for the 2015 8-hour ozone NAAQS. EPA has not yet taken final action on Tennessee's good neighbor SIP submission for the 2015 8-hour ozone NAAQS.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule amended regulatory text that includes incorporation by reference. EPA is proposing to remove Chapter 1200-3-29 – "Light Duty Vehicle Inspection and Maintenance" located in Table 1 — EPA Approved Tennessee Regulations, and Regulation No. 8 – "Regulation of Emissions from Light-Duty Motor Vehicles through Mandatory Vehicle Inspection and Maintenance Program," located in Table 5—EPA Approved Nashville-Davidson County, Regulations from the Tennessee SIP, which is incorporated by reference in accordance with the requirements of 1 CFR 51.5. EPA has made and will continue to make the SIP generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

IV. Supplemental Proposed Actions

In its June 2020 NPRMs, EPA originally proposed to approve Tennessee's February 26,

[17] On March 15, 2022, Administrator Michael S. Regan signed the final Revised CSAPR Update. The final action relies on the same modeling conducted for the proposed rulemaking and described here. *See* https://www.epa.gov/csapr/revised-cross-state-air-pollution-rule-update.

2020, SIP revisions to remove the I/M programs for Hamilton County and the Middle Tennessee Area from Tennessee's SIP. EPA continues to propose to find that the removal of the I/M program requirements for Hamilton County and Middle Tennessee are consistent with CAA section 110(l). Additionally, EPA continues to propose to approve the removal of the I/M requirements for Hamilton County and the Middle Tennessee Area from the Tennessee SIP. However, through this SNPRM, EPA is proposing to rely on an additional and clarified technical rationale related to the proposed approval of Tennessee's February 26, 2020 SIP revisions. Specifically, EPA proposes to rely on an emissions inventory comparison to inform its determination of whether Hamilton County and the Middle Tennessee Area would continue to attain and maintain the ozone and CO NAAQS and further affirms that both areas would continue to attain and maintain the other NAAQS after removal of the I/M program. EPA is further proposing to conclude that the proposed removal of the I/M program will not interfere with other states' ability to attain and maintain the 2008 ozone NAAQS under the good neighbor provision and providing information related to that conclusion. EPA is requesting comment on the use of additional and clarified technical analysis in this supplemental proposal.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve SIP submissions that comply with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. These actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 13, 2021.

John Blevins,
Acting Regional Administrator,
Region 4.

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